

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-11430

William M . Tyree

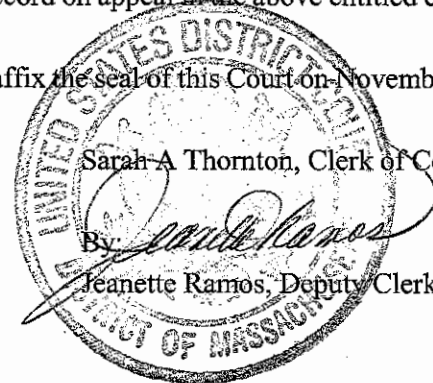
v.

United States Army, et al

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 11/4/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on November 9, 2005.



Receipt of the documents in the above entitled case is hereby acknowledged this date: 11/9/05

D. Barchak
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-11430-RCL**

Tyree v. United States Army et al
Assigned to: Judge Reginald C. Lindsay
Cause: 28:2671 Federal Tort Claims Act

Date Filed: 06/23/2004
Jury Demand: None
Nature of Suit: 360 P.I.: Other
Jurisdiction: U.S. Government
Defendant

Plaintiff

William M. Tyree, Jr.

represented by **William M. Tyree, Jr.**
MCI Walpole
P.O. Box 100
South Walpole, MA 02071
PRO SE

V.

Defendant

United States Army



represented by **Michael P. Sady**
United States Attorney's Office
John Joseph Moakley Federal
Courthouse
1 Courthouse Way
Suite 9200
Boston, MA 02210
617-748-3362
Fax: 617-748-3971
Email: michael.sady@usdoj.gov
ATTORNEY TO BE NOTICED

Defendant

CID Agent Paul Mason (Retired)

Defendant






**CID Agent Joseph Burzenski
(Retired)**

Date Filed	#	Docket Text
06/23/2004		COMPLAINT Filing fee: \$ 150, receipt number 56831, filed by William M. Tyree Jr..(Stanhope, Don) (Entered: 06/24/2004)
06/23/2004		Summons Issued as to CID Agent Joseph Burzenski (Retired), CID

		Agent Paul Mason (Retired), United States Army. (Stanhope, Don) (Entered: 06/24/2004)
06/23/2004	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Cohen. (Stanhope, Don) (Entered: 06/24/2004)
07/20/2004	●5	Letter from William M. Tyree regarding Summons Served and other Filings Served. (Stanhope, Don) (Entered: 08/04/2004)
07/20/2004	●6	Plaintiff's MOTION to File Two Sided Copies of Pleadings with the United States District Court in this case. by William M. Tyree Jr.. (Stanhope, Don) (Entered: 08/04/2004)
07/20/2004	●7	Plaintiff's MOTION for the United States District Court Magistrate Judge to Adopt the Plaintiff's Proposed Finding of Fact and Conclusion of Law in the Plaintiff's Amended Complaint Supported by Exhibits 1-7, and Supplemental Pleadings. by William M. Tyree Jr..(Stanhope, Don) (Entered: 08/04/2004)
07/20/2004	●8	Plaintiff's MOTION to Effect Service of Amended Complaint with Exhibits 1-7 in Support and Supplemental Pleadings Served on United States District Court by Mailing Same to the Named Defendants VIA Certified U.S. Mail Return Receipt Requested. by William M. Tyree Jr.. (Stanhope, Don) (Entered: 08/04/2004)
07/20/2004	●9	AFFIDAVIT of the Plaintiff Confirming Nolle Prosequi and Dismissal of Criminal Charges for Insufficient Evidence that Brought About Alleged False Arrest and Imprisonment with Exhibits in Support. by William M. Tyree Jr.. (Stanhope, Don) (Entered: 08/04/2004)
07/20/2004	●10	AFFIDAVIT of William M. Tyree Attesting to Prison Documents that Contain the Date of February 13th, 1979, as the Date of the Arrest of William M. Tyree, and the Date his Sentence Took Effect. by William M. Tyree Jr.. (Stanhope, Don) (Entered: 08/04/2004)
07/20/2004	●11	Plaintiff's Proposed Magistrates Findings of Fact and Conclusion of Law on the Plaintiff's Amended Complaint Supported by Exhibits 1-7, and Supplemental Pleadings Before Cohen, Magistrate Judge. by William M. Tyree Jr. (Stanhope, Don) (Entered: 08/04/2004)
07/20/2004	●12	Civil Action on the Nature of Four Legal Claims Pursuant to the Federal Tort Claim Act. by William M. Tyree Jr.. (Attachments: # 1 part 2# 2 part 3# 3 part 4)(Stanhope, Don) (Entered: 08/04/2004)
07/30/2004	●2	Plaintiff's MOTION for the United States Marshal to Make Service on the Defendant CID Agent Joseph Burzenski, U.S. Army, (Retired), or in the Alternative, Order that Service of the Summons and Related Amended Complaint May be Made on the U.S. Attorney for the State of Massachusetts. by William M. Tyree Jr..(Stanhope, Don) (Entered: 08/03/2004)
07/30/2004	●3	AFFIDAVIT of William M. Tyree in Support of 2 MOTION for Service. (Stanhope, Don) (Entered: 08/03/2004)

07/30/2004	<u>14</u>	AFFIDAVIT of William M. Tyree Jr. Attesting to Service of the Summons, Amended Complaint, and Supporting Documents Seen in Attached Letter of July 3, 2004 on Defendant(s) U.S. Army, and CID Agent Paul Mason. (Attachments: # <u>1</u> Exhibit RETURNED DOCUMENTS)(Stanhope, Don) (Entered: 08/03/2004)
08/20/2004	<u>13</u>	Letter from William M. Tyree. (Stanhope, Don) (Entered: 08/23/2004)
09/14/2004	<u>14</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint by United States Army.(Sady, Michael) (Entered: 09/14/2004)
10/05/2004		Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>14</u> Motion for Extension of Time to Answer to 11/15/04 re <u>1</u> Complaint CID Agent Joseph Burzenski (Retired), CID Agent Paul Mason (Retired), United States Army. (Hourihan, Lisa) (Entered: 10/05/2004)
10/11/2004	<u>15</u>	Letter from William M. Tyree. (Stanhope, Don) (Entered: 10/19/2004)
11/15/2004	<u>16</u>	MOTION for Extension of Time to 12/31/04 to File Answer by CID Agent Joseph Burzenski (Retired), CID Agent Paul Mason (Retired), United States Army.(Sady, Michael) (Entered: 11/15/2004)
11/19/2004	<u>17</u>	Letter from William M. Tyree regarding Government's 11/15/04 Motion to Extend Time to Respond to Complaint.. (Attachments: # <u>1</u> Exhibit 1) (Stanhope, Don) (Entered: 12/01/2004)
12/03/2004		Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>16</u> Motion for Extension of Time to Answer re <u>1</u> Complaint to 12/31/04 CID Agent Joseph Burzenski (Retired), CID Agent Paul Mason (Retired), United States Army. (Hourihan, Lisa) (Entered: 12/03/2004)
12/13/2004		Judge Reginald C. Lindsay : electronic ORDER entered denying <u>2</u> Plaintiff's MOTION for the United States Marshal to Make Service on the Defendant CID Agent Joseph Burzenski, U.S. Army, (Retired), or in the Alternative, Order that Service of the Summons and Related Amended Complaint May be Made on the U.S. Attorney for the State of Massachusetts. To the extent that this is a motion seeking to have the Marshal's Service serve the complaint without fee, the motion is denied because the plaintiff is not proceeding in forma pauperis. The plaintiff may contact the Marshal's Service directly, pay the required fee, and have service made, or the plaintiff may seek leave to have a constable serve the papers. The court denies <u>6</u> Plaintiff's MOTION to File Two Sided Copies of Pleadings with the United States District Court in this case. Such filings may impede the scanning of the plaintiff's filings. The court denies without prejudice <u>7</u> Plaintiff's MOTION for the United States District Court Magistrate Judge to Adopt the Plaintiff's Proposed Finding of Fact and Conclusion of Law in the Plaintiff's Amended Complaint Supported by Exhibits 1-7, and Supplemental Pleadings. This motion is premature. The court denies <u>8</u> Plaintiff's MOTION to Effect Service of Amended Complaint with Exhibits 1-7 in Support and Supplemental Pleadings Served on United States District Court by Mailing Same to the Named Defendants VIA Certified U.S. Mail Return Receipt Requested. Service must be made in accordance with the Federal Rules of Civil

		Procedure and the court's Local Rules. (Lindsay, Reginald) (Entered: 12/13/2004)
12/23/2004	<u>18</u>	Letter from William M. Tyree regarding 12/13/04 Order from Judge Lindsay. (Stanhope, Don) (Entered: 12/29/2004)
02/03/2005	<u>19</u>	US Marshal Process Receipt and Return for Amended Complaint. U.S. Army served Delivered on 1/28/5 (Stanhope, Don) (Entered: 02/07/2005)
02/09/2005	<u>20</u>	US Marshal Process Receipt and Return for Summons and Complaint. AUSA Michael P. Sady served Delivered on 2/9/05 (Stanhope, Don) (Entered: 02/15/2005)
02/09/2005	<u>21</u>	US Marshal Process Receipt and Return for Summons and Complaint. AUSA Michael P. Sady served for Henry H. Amsden served Delivered on 2/9/5 (Stanhope, Don) (Entered: 02/15/2005)
02/25/2005	<u>22</u>	MOTION for Entry of Default Against All Named Defendants. filed by William M. Tyree, Jr.(Stanhope, Don) (Entered: 02/28/2005)
02/25/2005	<u>23</u>	AFFIDAVIT of William M. Tyree in Support of <u>22</u> MOTION for Entry of Default. (Stanhope, Don) (Entered: 02/28/2005)
02/25/2005	<u>24</u>	MOTION to Stay Proceedings Pending Mandamus Review of Reinstatement of the Plaintiff in the U.S. Army by the U.S. Court of Appeals for the First Circuit. filed by William M. Tyree, Jr.(Stanhope, Don) (Entered: 02/28/2005)
04/11/2005	<u>25</u>	MOTION to Dismiss <i>for Lack of Service</i> by United States Army, CID Agent Paul Mason (Retired), CID Agent Joseph Burzenski (Retired). (Sady, Michael) (Entered: 04/11/2005)
04/11/2005	<u>26</u>	MEMORANDUM in Support re <u>25</u> MOTION to Dismiss <i>for Lack of Service</i> filed by United States Army, CID Agent Paul Mason (Retired), CID Agent Joseph Burzenski (Retired). (Attachments: # <u>1</u>)(Sady, Michael) (Entered: 04/11/2005)
04/27/2005	<u>27</u>	Letter from William M. Tyree regarding Appeal. (Stanhope, Don) (Entered: 04/27/2005)
04/27/2005	<u>28</u>	MOTION for Extension of Time Until May 21, 2005 to file Proof of Service of Process on All Named Defendant's. filed by William M. Tyree, Jr.(Stanhope, Don) (Entered: 04/27/2005)
04/27/2005	<u>29</u>	AFFIDAVIT of William M. Tyree in Support of <u>28</u> MOTION for Extension of Time Until May 21, 2005 to File Proof of Service of Process on All Named Defendant's. (Stanhope, Don) (Entered: 04/27/2005)
05/13/2005		Judge Reginald C. Lindsay : Electronic ORDER entered denying <u>22</u> Plaintiff's MOTION for Entry of Default Against All Named Defendants, denying <u>24</u> Plaintiff's MOTION to Stay Proceedings Pending Mandamus Review, and granting <u>28</u> Plaintiff's MOTION for Extension of Time Until May 21, 2005 to file Proof of Service of Process on All Named

		Defendants.(Lindsay, Reginald) (Entered: 05/13/2005)
05/20/2005	 30	Plaintiff's Opposition to 25 MOTION to Dismiss <i>for Lack of Service</i> filed by William M. Tyree, Jr. (Attachments: # 1 Exhibit 1-8 NOT SCANNED)(Stanhope, Don) (Entered: 05/23/2005)
09/14/2005	 31	Letter/request (non-motion) from William M. Tyree.This Document was unable to be scanned due to its size. (York, Steve) (Entered: 09/14/2005)
10/26/2005		Judge Reginald C. Lindsay : ElectronicORDER entered granting 25 MOTION to Dismiss for Lack of Service by United States Army and CID Agent Paul Mason. The docket and the affidavit of the plaintiff show that the plaintiff has failed to make timely service of process. The clerk shall enter judgment for the defendants in this action and shall terminate this case on the court's docket. (Lindsay, Reginald) (Entered: 10/26/2005)
10/27/2005	 32	Judge Reginald C. Lindsay : ORDER entered. JUDGMENT in favor of defendants against plaintiff(Hourihan, Lisa) (Entered: 10/27/2005)
11/04/2005	 33	NOTICE OF APPEAL by William M. Tyree, Jr. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerk/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 11/25/2005. (Attachments: # 1 Exhibit A)(York, Steve) (Entered: 11/07/2005)